Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Village Dissolution

Village dissolution is the termination of a village: the village ceases to exist and its territory returns to unincorporated status. Ohio law provides four pathways to a village dissolution – most prevalent lately is a dissolution petitioned by the village's residents. Ohio law also specifies a process for winding up the affairs of a dissolved village. Its territory and property transfer to the township or townships where the village was located.

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Four pathways to dissolution

In Ohio, there are four pathways to dissolution: (1) when the electors of a village petition for a dissolution, (2) when a village is in fiscal emergency, (3) when a village with a population of 500 or less meets certain criteria, and (4) when a village fails to field candidates or provide enough services.

By petition of the electors

A village can be dissolved by petition of 30% of the electors.[1] The electors can file the petition with either the legislative authority of the village or the board of elections.[2] If they initially file the petition with the village's legislative authority, but the legislative authority fails to act on it for 30 days, the electors then can file the same petition with the board of elections.[3] Or, the electors can skip filing the petition with the legislative authority and simply file it with the board of elections initially.[4]

Importantly, the petition must be filed in an even-numbered year, between July 1 and the date that is 90 days before the general election; this is approximately a one-month window to file. The issue is decided at the general election. If approved by a majority of voters, the village is dissolved.[5] This form of dissolution is referred to as "surrendering corporate power," since the voters are choosing to dissolve.

Fiscal emergency

When a village is in fiscal emergency, a financial planning and supervision commission is established to assist the village in creating a plan to recover from fiscal emergency.[6] If the village has been in fiscal emergency for four consecutive years and the plan is not reasonably expected to correct and eliminate all fiscal emergency conditions within five years, the Auditor of State – with the commission's approval – can petition the Attorney General to file an action to dissolve the village.

The Attorney General must file the legal action – there is no discretion allowed to the Attorney General, assuming the village meets the qualifications. The court has 90 days to hold a hearing. If the court finds the conditions described above are met, the village is dissolved.[7]

Population of 500 or less

The Auditor of State must ask the Attorney General to file an action to dissolve a village if it has a population of 500 or less[8] and an audit report finds the village satisfies <u>any two</u> of the following:

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[1] Determined by the number voting at the last regular municipal election.

[2] The petition also must be filed with the board of township trustees of each township that may be affected by the dissolution.

[3] This is a recent (2017) modification to the law (H.B. 49 of the 132nd General Assembly) meant to resolve the issue of a legislative authority that indefinitely refuses to act on the petition.

[4] Though this is not abundantly clear by the language in the statute, this issue was decided by a court of appeals in *State ex rel. Pringle v. Clermont Cty. Bd. of Elections*, 2019 Ohio App. LEXIS 4581 (12th Dist., 2019).

[5] R.C. 703.33.

[6] R.C. Chapter 118.

[7] R.C. 118.31.

[8] Population is determined either by the last federal decennial census or by estimates certified by the Ohio Department of Development between censuses.

- The village has been in fiscal emergency for at least three consecutive years with little or no improvement on the conditions that caused the fiscal emergency declaration.
- The village has failed to properly follow election laws for at least two consecutive election cycles for any one elected office in the village.
- The village has been declared to be unauditable in at least two consecutive audits.
- The village does not provide at least two services typically provided by municipal government, such as police or fire protection, garbage collection, water or sewer service, emergency medical services, road maintenance, or similar services. Administrative services or legislative actions do not count as "services" for this purpose.
- The village has failed for any fiscal year to adopt the required tax budget.
- A village-elected official has been convicted of theft in office at least two times in a period of ten years (either the same person or different people).

The Attorney General must decide, within 20 days, whether to file the legal action to dissolve the village. If the Attorney General files the legal action, the court has 90 days to hold a hearing. If the court finds the conditions described above are met (population of 500 or less and two of the six bulleted items), the village is dissolved.[9]

Lack of candidates or services

In 2024, the General Assembly enacted legislation to create a new pathway that involves a review of every village's candidates and services about every 10 years. The process begins the year after the federal decennial census results are released. A group of county officials (the county auditor, county treasurer, and one county commissioner) must evaluate every village located in the county[10] to determine the following:

- At each election at which an elected village position was voted upon, did at least one candidate appear on the ballot for each elected village position?
- Did the village provide at least five of the following services:
  - Police protection;
  - Firefighting services;
  - Garbage collection;
  - Water service;
  - Sewer service;

[9] R.C. 703.34. Before September 30, 2025, this pathway applied only to villages that consisted of less than two square miles and had a population of 150 or less; these factors were modified by H.B. 96 of the 136th General Assembly.

[10] If a village is in more than one county, it is evaluated only by the county officials of the county with the largest portion of the village's population.

- Emergency medical services;
- Road maintenance;
- Park services or other recreation services;
- Human services;
- A public library established and operated solely by the village;
- Electric services?

A service qualifies if the village provides it directly, contracts with a private nongovernmental entity to provide it, or contracts with a regional council of governments that includes three or more political subdivisions (two must be municipal corporations) to provide it.

The county officials must evaluate the approximately 10-year period beginning the day the results of the previous federal decennial census were released and ending the day the most recent federal decennial census results were released. To assist with their evaluations, they request information from each village, which must be provided within 30 days. A village must include information (including documentation) about: candidates on the ballot for village elected offices during the evaluation period; the services provided over the evaluation period, including how they were provided; a copy of the final appropriation budgets for the evaluation period; and any other information specifically requested by the county officials. If necessary, the county officials can request additional information, which the village must provide within ten days. The county officials must base their finding on the information provided from the village.

The county officials have at least a year to do their evaluations, which they must complete by the last day of the year following the year the results of the federal decennial census were released (e.g., if 2030 census results are released April 4, 2031, the county officials have until December 31, 2032). The county must notify the village of its finding. If the village satisfied the factors, the process ends. If the county finds the village did not satisfy the factors, the county must file its finding with the board of elections of the county where the largest portion of the village's population resides. The board then submits the question of dissolution to the voters at the next general election that is at least 90 days after the board received the finding. If the voters vote in favor of a dissolution, the village is dissolved.[11]

Dissolution in question

While a dissolution is in question but not yet decided,[12] Ohio law prohibits the village from creating any new debts, obligations, or liabilities unless necessary to continue providing utilities. Once it is decided a dissolution will not occur, the village may resume its normal activities.[13]

[11] R.C. 703.331; See H.B. 331 of the 135th General Assembly.

[12] Beginning when the electors file a petition to place the question of dissolution on the ballot and ending when the election result is certified. Alternatively, beginning when the Attorney General initiates a legal action and ending when the court makes its decision. R.C. 703.31.

[13] R.C. 703.35(A).

Because a village will cease to exist quickly upon a decision being made (by the voters or the court), the village must select – while the dissolution is in question – an official or employee to act as the village representative during a dissolution should one occur. The representative must be knowledgeable on village matters and, if a dissolution occurs, will assist in winding up the village's affairs.[14] If the village did not select a representative before being dissolved, one will be selected after the dissolution.[15]

Process for dissolution; "winding up the affairs"

Dissolution is effective

Once it is decided a dissolution will occur (Ohio law refers to this date as the "date the dissolution is effective"),[16] the following take effect:[17]

- The village ceases to exist and its officials cease to hold office.
- All laws of the village are extinguished; no new laws can take effect (except some tax laws; see "**Taxes**," below).
- All leases terminate as specified in the respective lease agreements.[18]
- A "Transition Supervisory Board" is created (see "**Transition Supervisory Board**," below).
- The territory of the village becomes part of the township or townships in which the village was located, along existing township boundaries.[19]
- All resolutions of the township apply in the territory as applicable, including zoning resolutions (or county zoning may apply).

Transition period

The "transition period" is when the work is done to wind up the affairs of the village. It begins on the date the dissolution is effective and ends when the Transition Supervisory Board determines all outstanding debts, obligations, and liabilities of the dissolved village have been resolved, all real and personal property of the dissolved village has been transferred or otherwise disposed of, and all utility property and utility services have been transferred.[20]

[14] R.C. 703.35(B).

[15] R.C. 703.361(F).

[16] The date an election result in favor of dissolution is certified or a court's order of dissolution is filed. R.C. 703.31.

[17] R.C. 703.36.

[18] The Transition Supervisory Board resolves any disputes regarding lease terminations.

[19] The Transition Supervisory Board resolves any ambiguities regarding territory.

[20] R.C. 703.31 and 703.37.

Transition Supervisory Board

The Transition Supervisory Board is responsible for managing the transition of the dissolved village. The Board has three voting members – the county auditor, the county recorder, and one county commissioner – and a nonvoting township representative from each township affected by the dissolution.[21] The "village representative" (discussed above) and the individuals serving as fiscal officer and primary legal counsel before the village dissolved are required to provide consultation to the Board.[22]

The Board appoints and supervises a receiver-trustee to assist the Board with winding up the dissolved village's affairs.[23] The receiver-trustee has the following duties:[24]

- Resolve the outstanding debts, obligations, and liabilities of the dissolved village;
- Approve necessary operations and budgetary functions of the dissolved village;
- Settle or resolve any legal claims against the dissolved village (claimants have 90 days from the date the receiver-trustee is appointed to bring a claim);[25]
- Administer and collect taxes and special assessments levied by the dissolved village;
- Wind down the dissolved village's involvement in community improvement corporations, special improvement districts, and tax increment financing arrangements;
- Dispose of the dissolved village's real and personal property;
- Manage the dissolved village's utility services, then transfer them;
- Respond to requests for the dissolved village's public records and transfer custody of the records to the proper entity;
- Conduct all other necessary business to conclude the village's affairs.

Taxes

If the receiver-trustee determines that the revenue from an existing municipal property or income tax or special assessment is needed to pay outstanding debts, obligations, or liabilities of the dissolved village, those taxes or assessments can continue to be levied and collected after the dissolution is effective solely to pay those obligations. During the transition period, the receiver-trustee administers and receives payments and settlements of the taxes. After the transition period, the payments are administered by the fiscal officer of the township that

[21] R.C. 703.361(A) and (B). If a village is located in more than one county, the county members from the county where a majority of the village was located serve on the Board. An individual who is a resident of the dissolved village cannot serve on the Board and must designate a replacement.

[22] R.C. 703.361(F).

[23] R.C. 703.361(E). The Board chooses from a list of options provided by the Auditor of State. If necessary, the Board may replace the receiver-trustee with the Auditor of State's approval.

[24] R.C. 703.362.

[25] Any claim brought after the 90-day period is void. R.C. 703.39.

assumed most of the village's territory. Once those obligations are paid in full, the taxes may no longer be levied.[26]

Property taxes levied by the township(s) into which a village is dissolved on all property within the township begin to apply to property within the village's former boundaries in the tax year after which the village's property taxes are no longer levied. Property taxes that are levied on a portion of a township's property must be amended to include property in the village's former territory. Taxes levied by subdivisions other than the township continue unimpeded by the village's dissolution.[27]

Any revenue collected from municipal taxes and assessments that is not used to pay off the dissolved village's outstanding obligations must be paid to the townships into which the village is dissolved, in proportion to the amount of former village territory in each. A township must deposit the revenue into the township general fund, and use it to directly or indirectly benefit the territory of the dissolved village.[28]

Debt

In general, the township(s) receiving territory of a dissolved village do not assume the village's voted debts, obligations, or liabilities. But there are exceptions for obligations imposed by Special Improvement Districts and Tax Increment Financing arrangements that a township may be required to take on.[29] Unvoted debt serviced by property taxes levied by the village within the ten-mill limitation, however, must be assumed by the townships, apportioned based on the total assessed valuation of territory that each township absorbs in the tax year in which the dissolution is effective.[30]

Property

The receiver-trustee must sell the dissolved village's liquidable assets and use the proceeds to pay the outstanding debts, obligations, and liabilities as necessary. The remaining property is transferred to the township into which the village dissolved. If multiple townships are involved, the receiver-trustee directs the townships to agree on a distribution of the remaining property. The receiver-trustee helps the townships evaluate the remaining property as necessary. If the townships cannot reach an agreement within 60 days, the receiver-trustee decides how the property should be distributed.[31]

Utilities

During the transition, the dissolved village's utilities must continue uninterrupted. The receiver-trustee is responsible for providing that continued service until the receiver-trustee is

[26] R.C. 703.371(A), (C), and (E).

[27] R.C. 703.371(H) and (I).

[28] R.C. 703.371(G).

[29] See R.C. 703.377 and 703.378.

[30] R.C. 703.372.

[31] R.C. 703.373.

able to transfer each utility to an appropriate entity. Any relevant real or personal property is also transferred to the entity taking over the utility.[32]

Public records

The receiver-trustee must review the dissolved village's records to determine which should be disposed of, transferred to an entity taking over a utility service, or transferred to the townships into which the village dissolved. The receiver-trustee has 90 days to complete the review and is assisted by the county records commission of the county where most of the village was located. Before records are transferred, requests for the dissolved village's public records are submitted to the receiver-trustee, who is responsible for responding. If a request is submitted for a record that was already transferred to another entity, the receiver-trustee must tell the requestor that the record may be available from the other entity. The entities take over all responsibilities related to public records when the transition period is over.[33]

LGF payments

The budget commission of a county in which a dissolved village was fully or partially located must continue to make Local Government Fund (LGF) payments until the end of the apportionment plan. During the transition period, the payments are distributed to the receiver-trustee. After the transition period, the payments are distributed to the fiscal officer of the township that assumed most of the village's territory. After first putting those funds towards any outstanding debts, obligations, or liabilities of the village, that fiscal officer then apportions the amount to all of the townships into which the village was dissolved, in proportion to the amount of former village territory in each.

The budget commission cannot amend the apportionment plan to reallocate the village's portion until after the transition period has begun. Once the transition period has begun, if the commission does adopt a new apportionment plan, it must then exclude the dissolving village.[34]

Fund transfers

After a village is dissolved, the receiver-trustee may transfer any money remaining in a village account to a special account solely for the purpose of paying the village's outstanding obligations, or to the general fund of a township to benefit the village's former territory. This transfer may be made without the approval of the Tax Commissioner.[35]

Transition over

The transition period ends when the Transition Supervisory Board determines all outstanding debts, obligations, and liabilities of the dissolved village have been resolved, all real and personal property of the dissolved village has been transferred or otherwise disposed of, and

[32] R.C. 703.374.

[33] R.C. 703.375.

[34] R.C. 703.379.

[35] R.C. 5705.14.

all utility property and utility services have been transferred.[36] The Board must notify the Auditor of State and all entities affected by or participating in the dissolution that the transition period is over. Within 30 days after the transition period ends, the Auditor begins the final audit of the dissolved village. When completed, the Auditor provides the audit to the Board.[37] The Board ceases to exist when the Board receives the final audit.[38]

[36] R.C. 703.31.

[37] R.C. 703.38.

[38] R.C. 703.361(G).